

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SNYDER-HILL, et al.,)	Case No. 2:18-cv-00736
)	
Plaintiffs,)	Judge Michael H. Watson
)	
v.)	Chief Magistrate Judge Elizabeth P.
)	Deavers
THE OHIO STATE UNIVERSITY,)	
)	
Defendant.)	
)	

**DEFENDANT THE OHIO STATE UNIVERSITY'S RESPONSE TO
PLAINTIFFS' THIRD NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs now have filed a third notice of supplemental authority. Once again, contrary to the argument contained in this most recent notice of supplemental authority, the First Circuit's decision in *Ouellette v. Beaupre*, 977 F.3d 127 (1st Cir. 2020) does not support plaintiffs' theory that the accrual of the two-year statute of limitations governing their Title IX claims against Ohio State was delayed by twenty to forty years.

As discussed in Ohio State's motion to dismiss briefing, all plaintiffs' Title IX claims accrued at the time of the abuse because (1) *Supreme Court* and *Sixth Circuit* authority hold that the discovery rule does not apply to statutes such as Title IX, which do not expressly incorporate the discovery rule into their statutory language; (2) the Sixth Circuit and the Southern District of Ohio hold that Title IX (and Section 1983) claims based on allegations of sexual assault, abuse, or harassment accrue at the time of the assault, abuse, or harassment itself and reject the delayed accrual sought by plaintiffs; and (3) unlike in *Ouellette*, all plaintiffs here have asserted specific, detailed, and extensive allegations in their Second Amended Complaint that: (i) Strauss' conduct and Ohio State's alleged deliberate indifference to it were "well known," "common knowledge," a "frequent topic of discussion," "discussed openly," "an open secret," a "rite of passage," and

“akin to being ‘hazed’”; (ii) such knowledge was “reflected in the commonly-used nicknames for Dr. Strauss . . . that reflect his sexual predation”; and (iii) although “[m]ale student after male student complained” about Strauss and such complaints “poured in over the years” and were “persistent[], serious[], and regular[],” Ohio State “administrators did not take any action in response to the athletes’ complaints about Dr. Strauss” and were not “particularly concerned” about them. *See* OSU MTD (Doc. 128); OSU Reply to MTD (Doc. 135). Because plaintiffs here were armed with, and allege, knowledge of Strauss’ pervasive conduct and Ohio State’s alleged deliberate indifference to it, *Ouellette* supports, rather than refutes, Ohio State’s position that plaintiffs’ Title IX claims against Ohio State accrued at the time of the abuse and are barred by the statute of limitations.

In further supplementation of authority, since Ohio State filed its motion to dismiss, the Southern District of Ohio and approximately **one hundred** court decisions across the country have dismissed, or affirmed dismissals of, Section 1983 claims pursuant to Fed. R. Civ. P. 12(b)(6) or 12(c) as barred by the statute of limitations, including for example:

1. *Goldwire v. Chambers-Smith*, No. 2:20-CV-2673, 2020 WL 6158648 (S.D. Ohio Oct. 21, 2020) (Watson, J.)
2. *Bruseau v. Franklin Cty. Correction Officers*, No. 2:20-CV-2843, 2020 WL 3077536 (S.D. Ohio June 10, 2020), *report and recommendation adopted*, No. 2:20-CV-2843, 2020 WL 6390068 (S.D. Ohio Nov. 2, 2020)
3. *Oliphant v. Goodmen*, No. 1:19-CV-00662, 2020 WL 5701913 (S.D. Ohio Sept. 24, 2020), *report and recommendation adopted*, No. 1:19-CV-662, 2020 WL 6060678 (S.D. Ohio Oct. 14, 2020)
4. *Blair v. Hoover*, No. 1:20-CV-751, 2020 WL 5938842 (S.D. Ohio Oct. 7, 2020), *report and recommendation adopted*, No. 1:20-CV-751, 2020 WL 6526253 (S.D. Ohio Nov. 5, 2020)
5. *Hopson v. Hunt*, No. 2:20-CV-4751, 2020 WL 5629679 (S.D. Ohio Sept. 21, 2020)

6. *Mitchell v. Ohio State Univ.*, No. 2:19-CV-4162, 2020 WL 5250459 (S.D. Ohio Sept. 3, 2020)
7. *Christopher M. Russell, Plaintiff v. Warden, Lebanon Corr. Inst., Defendant*, No. 3:19-CV-02905, 2020 WL 6702059 (N.D. Ohio Nov. 13, 2020)
8. *Hill v. City of Toledo*, No. 3:20-CV-00493, 2020 WL 6701988 (N.D. Ohio Nov. 13, 2020)
9. *Curley v. City of Akron*, No. 5:20 CV 1185, 2020 WL 6146478 (N.D. Ohio Oct. 19, 2020)
10. *Norman v. Wheeler*, No. 1:20CV1357, 2020 WL 6044363 (N.D. Ohio Oct. 13, 2020)
11. *Mitchell v. City of Akron Police Dep't*, No. 5:20-CV-59, 2020 WL 5203489 (N.D. Ohio Aug. 31, 2020)
12. *Cornelius v. City of Mount Washington*, Kentucky, No. 318CV00341GNSCHL, 2020 WL 6389860 (W.D. Ky. Oct. 30, 2020)
13. *Burke v. Kentucky*, No. 1:20-CV-P156-DJH, 2020 WL 5824025 (W.D. Ky. Sept. 30, 2020)
14. *Blair v. Thompson*, No. CV 19-84-DLB, 2020 WL 5648095 (E.D. Ky. Sept. 22, 2020)
15. *Thomas v. Bernhardt*, No. 1:19CV-157-GNS, 2020 WL 5504236 (W.D. Ky. Sept. 11, 2020)
16. *CORNILIOS WOODY, Plaintiff, v. ANDREW KELLEY, ET AL., Defendants. Additional Party Names: Ben Burnett, Ben Rosenburry, Ben Yates, Brandon Adams, Chuckie Moran, Jimmy Gray*, No. 20-1252-JDT-CGC, 2020 WL 6568866 (W.D. Tenn. Nov. 9, 2020)
17. *Stevens v. Chumley*, No. 18-1122-JDT-CGC, 2020 WL 6276056 (W.D. Tenn. Oct. 26, 2020)
18. *Mashek v. Saah*, No. 3:19-CV-468-TAV-HBG, 2020 WL 6163130 (E.D. Tenn. Oct. 21, 2020)
19. *Woody v. Kelley*, No. 20-1124-JDT-CGC, 2020 WL 5899115 (W.D. Tenn. Oct. 5, 2020)
20. *Bechard v. Stedman*, No. 3:20-CV-201, 2020 WL 5805519 (E.D. Tenn. Sept. 29, 2020)
21. *Irvin v. City of Clarksville*, No. 3:20-CV-00762, 2020 WL 5748887 (M.D. Tenn. Sept. 25, 2020)

22. *Stephens v. McGaha*, No. 3:18-CV-157-TAV-HBG, 2020 WL 5603756 (E.D. Tenn. Sept. 17, 2020)
23. *Luft v. Midland Cty.*, No. 2:20-CV-12827, 2020 WL 6484241 (E.D. Mich. Nov. 4, 2020)
24. *Johnson v. Miller*, No. 1:20-CV-791, 2020 WL 5677395 (W.D. Mich. Sept. 24, 2020)
25. *Mote v. Murtin*, 816 F. App'x 635 (3d Cir. 2020)
26. *Olrich v. Kenosha Cty.*, 825 F. App'x 397 (7th Cir. 2020)
27. *Hudson v. Nwaobasi*, 821 F. App'x 644 (7th Cir. 2020)
28. *McDowell v. Fox*, No. 19-55867, 2020 WL 6375580 (9th Cir. Oct. 30, 2020)
29. *McGroarty v. Swearingen*, 977 F.3d 1302 (11th Cir. 2020)
30. *Abdullah v. Jacksonville Hous. Auth.*, No. 20-10805, 2020 WL 5959547 (11th Cir. Oct. 8, 2020)
31. *Cornett v. Alabama Dep't of Transportation*, No. 18-15052, 2020 WL 5652353 (11th Cir. Sept. 23, 2020)
32. *GEORGE MONTANEZ, JR., Plaintiff, v. TOWN OF HIGHLAND, HIGHLAND POLICE DEPARMTMENT, CHIEF PETER HOJNICKI, & UNKNOWN POLICE OFFICER, Defendants.*, No. 2:19-CV-208-TLS, 2020 WL 6728961 (N.D. Ind. Nov. 13, 2020)
33. *Sosa v. Hulse*, No. 119CV01333NONEPGPC, 2020 WL 6582174 (E.D. Cal. Nov. 10, 2020)
34. *Red v. Heck*, No. 20-CV-02853-JD, 2020 WL 6562305 (N.D. Cal. Nov. 9, 2020)
35. *Falls-Miller v. Savannah-Chatham Cty. Pub. Sch. Bd.*, No. CV420-085, 2020 WL 6551226 (S.D. Ga. Nov. 6, 2020)
36. *Perkins v. Rome Mem'l Hosp.*, No. 620CV0196NAMATB, 2020 WL 6504626 (N.D.N.Y. Nov. 5, 2020)
37. *Mecey v. City of Farmington*, No. 4:19-CV-1526RLW, 2020 WL 6504661 (E.D. Mo. Nov. 5, 2020)
38. *Carmichael v. Allbaugh*, No. CIV-20-109-D, 2020 WL 6491660 (W.D. Okla. Nov. 4, 2020)
39. *Dorsainvil v. City of New York*, No. 19CV02323RPKSMG, 2020 WL 6482348 (E.D.N.Y. Nov. 4, 2020)

40. *Bonelli v. Grand Canyon Univ.*, No. CV-20-00143-PHX-SMB, 2020 WL 6450296 (D. Ariz. Nov. 3, 2020)
41. *Wilder v. Walker*, No. 7:20CV00511, 2020 WL 6435756 (W.D. Va. Nov. 2, 2020)
42. *DeClue v. Cty. of Alameda*, No. 20-CV-05808-PJH, 2020 WL 6381356 (N.D. Cal. Oct. 30, 2020)
43. *McGhee v. De La Torre*, No. 19-CV-0330 MV-JFR, 2020 WL 6286364 (D.N.M. Oct. 27, 2020)
44. *Ruiz v. Nevada Dep't of Corr.*, No. 218CV00091RBFEJY, 2020 WL 6287719 (D. Nev. Oct. 26, 2020)
45. *Brenes v. City of Asbury Park*, No. CV 19-22204 (FLW), 2020 WL 6268693 (D.N.J. Oct. 26, 2020)
46. *Gould v. Clark*, No. 2:19 CV 446, 2020 WL 6263035 (N.D. Ind. Oct. 23, 2020)
47. *Hart v. McDonald's*, No. 20-CV-1044 WJ/JFR, 2020 WL 6262993 (D.N.M. Oct. 23, 2020)
48. *Gonzalez v. Am. Fed'n of State, Cty. & Mun. Employees*, AFL-CIO, No. 3:20-CV-505 (VAB), 2020 WL 6263549 (D. Conn. Oct. 23, 2020)
49. *Smith v. Barnett*, No. 4:20-CV-4066, 2020 WL 6205760 (D.S.D. Oct. 22, 2020)
50. *O'Neil v. Pasco Cty. Sheriff*, No. 220CV00936GMNBNW, 2020 WL 6206003 (D. Nev. Oct. 20, 2020)
51. *Thompson v. City of Bozeman*, No. CV 18-75-BMM-KLD, 2020 WL 6144808 (D. Mont. Oct. 20, 2020)
52. *Morris v. Hewitt*, No. 5:20-CV-05175, 2020 WL 6140451 (W.D. Ark. Oct. 19, 2020)
53. *Duncan v. Lee*, No. 7:20CV00529, 2020 WL 6136851 (W.D. Va. Oct. 19, 2020)
54. *QUAME LAMAR COLLINS, Plaintiff, v. KATIE YOUNG, Nurse; STACY WILLIAMS, Nurse; ALFONZO WILLIAMS, Sheriff; CHESTER V. HUFFMAN, Major; JOHN H. BUSH, Major; & CASSANDRA HAYNES, Captain, Defendants.*, No. CV 120-092, 2020 WL 6552079 (S.D. Ga. Oct. 16, 2020), *report and recommendation adopted sub nom. Collins v. Young*, No. CV 120-092, 2020 WL 6551221 (S.D. Ga. Nov. 6, 2020)
55. *Kalu v. Love*, No. 18-24819-CIV, 2020 WL 6118750 (S.D. Fla. Oct. 16, 2020)
56. *Gibbs v. Johnson*, No. 8:20-CV-00716-DCC, 2020 WL 6110973 (D.S.C. Oct. 16, 2020)

57. *Miesmer v. Smith*, No. CV 20-41-H-DLC, 2020 WL 6074560 (D. Mont. Oct. 15, 2020)
58. *Ybarra v. Mee*, No. CV 20-00167 LEK-WRP, 2020 WL 6087631 (D. Haw. Oct. 15, 2020)
59. *McDaniel v. Lizarraga*, No. 219CV1136JAMKJNP, 2020 WL 6075652 (E.D. Cal. Oct. 15, 2020)
60. *Witherspoon v. United States Gov't*, No. 20-22602-CIV, 2020 WL 6059851 (S.D. Fla. Oct. 14, 2020)
61. *James v. Fears*, No. 520CV00167MTTCHW, 2020 WL 6063938 (M.D. Ga. Oct. 14, 2020)
62. *Hamilton v. Gugger*, No. CV 20-4826, 2020 WL 6044194 (E.D. Pa. Oct. 13, 2020)
63. *Blassingame v. Wicks*, No. 3:20-CV-181-JD-MGG, 2020 WL 6048147 (N.D. Ind. Oct. 13, 2020)
64. *Boyd v. Rechcigl Defendants*, No. 420CV00129DPMJV, 2020 WL 6439924 (E.D. Ark. Oct. 8, 2020), *report and recommendation adopted sub nom. Boyd v. Rechcigl*, No. 4:20-CV-129-DPM-JJV, 2020 WL 6438642 (E.D. Ark. Nov. 2, 2020)
65. *Cavallero v. Idaho*, No. 1:20-CV-00116-DCN, 2020 WL 5961089 (D. Idaho Oct. 7, 2020)
66. *Jenkins v. Lee Cty. Sheriff's Office*, No. 219CV842FTM29NPM, 2020 WL 5876946 (M.D. Fla. Oct. 2, 2020)
67. *Vela v. City of Porterville*, No. 120CV01151AWIEPG, 2020 WL 5878351 (E.D. Cal. Oct. 2, 2020), *report and recommendation adopted*, No. 120CV01151AWIEPG, 2020 WL 6561362 (E.D. Cal. Nov. 9, 2020)
68. *JABARI J. JOHNSON, Plaintiff, v. KARINA THOMPSON, & RODRIGUEZ, Defendants.*, No. 20-CV-00434-PAB-MEH, 2020 WL 6701473 (D. Colo. Oct. 2, 2020), *report and recommendation adopted sub nom. Johnson v. Thompson*, No. 20-CV-00434-PAB-MEH, 2020 WL 6701425 (D. Colo. Oct. 29, 2020)
69. *Perkins v. Lampley*, No. 1:19-CV-00229-JCG, 2020 WL 5869928 (S.D. Miss. Oct. 1, 2020)
70. *Coooper v. Paramo*, No. 20-CV01342-AJB-NLS, 2020 WL 5847558 (S.D. Cal. Oct. 1, 2020)
71. *Robinson v. Norling*, No. CV 19-2892 (PAM/HB), 2020 WL 5816951 (D. Minn. Sept. 30, 2020)

72. *Perez v. Larson*, No. 3:19-CV-1015, 2020 WL 5845717 (M.D. Pa. Sept. 30, 2020)
73. *Farrukh v. Univ. of S. Fla. Bd. of Trustees*, No. 8:20-CV-73-T-33TGW, 2020 WL 6136642 (M.D. Fla. Sept. 30, 2020), *report and recommendation adopted*, No. 8:20-CV-73-T-33TGW, 2020 WL 6134221 (M.D. Fla. Oct. 19, 2020)
74. *Perkins v. Lockhart*, No. 1:19-CV-00129-JCG, 2020 WL 5821973 (S.D. Miss. Sept. 30, 2020)
75. *Toney v. Brown*, No. 220CV00386JPHMJD, 2020 WL 5798234 (S.D. Ind. Sept. 29, 2020)
76. *Panah v. Dep't of Corr. & Rehab.*, No. 14-00166 BLF (PR), 2020 WL 5798275 (N.D. Cal. Sept. 29, 2020)
77. *Jeanty v. TXFM, Inc.*, No. 4:19-CV-366, 2020 WL 5797825 (E.D. Tex. Sept. 29, 2020)
78. *Cox v. City of New Rochelle*, No. 17-CV-8193 (PMH), 2020 WL 5774910 (S.D.N.Y. Sept. 28, 2020)
79. *Williams v. Pritzker*, No. 20-CV-2050, 2020 WL 6018820 (C.D. Ill. Sept. 25, 2020)
80. *Kyrtle v. Smart*, No. 218CV02052KOBJHE, 2020 WL 6231898 (N.D. Ala. Sept. 25, 2020), *report and recommendation adopted*, No. 218CV02052KOBJHE, 2020 WL 6219794 (N.D. Ala. Oct. 22, 2020)
81. *Tidriri v. Bd. of Regents*, No. 4:20-CV-00085, 2020 WL 6342750 (S.D. Iowa Sept. 24, 2020)
82. *Spears v. El Dorado Cty.*, No. 216CV2655TLNDMCP, 2020 WL 5658248 (E.D. Cal. Sept. 23, 2020)
83. *McGhee v. Rodriguez*, No. 19-CV-0340 JCH-JHR, 2020 WL 5653864 (D.N.M. Sept. 23, 2020)
84. *Gunn v. Doe*, No. 19-CV-10383 (LLS), 2020 WL 5663393 (S.D.N.Y. Sept. 23, 2020)
85. *Witherspoon v. United States Gov't*, No. 20-CV-22602, 2020 WL 6064884 (S.D. Fla. Sept. 22, 2020), *report and recommendation adopted*, No. 20-22602-CIV, 2020 WL 6059851 (S.D. Fla. Oct. 14, 2020)
86. *Hardman v. Corizon Med. Servs.*, No. 1:20-CV-120-SEP, 2020 WL 5642282 (E.D. Mo. Sept. 22, 2020)
87. *McGraw v. N.C. Dep't of Corr.*, No. 5:19-CT-3116-M, 2020 WL 5632957 (E.D.N.C. Sept. 21, 2020)

88. *Wolfe v. Zuckerman*, No. 1:20-CV-00175, 2020 WL 5624134 (E.D. Va. Sept. 18, 2020)
89. *Alfano v. Skinner*, No. 4:18-CV-512, 2020 WL 5587240 (E.D. Tex. Sept. 18, 2020)
90. *Forman v. New York City Dep't of Educ.*, No. 19 CIV. 8156 (AT), 2020 WL 5549277 (S.D.N.Y. Sept. 16, 2020)
91. *Tummarello v. Montana*, No. CV 19-183-M-DLC, 2020 WL 5525588 (D. Mont. Sept. 15, 2020)
92. *Werthe v. Altman*, No. 3:20-CV-90-HEH, 2020 WL 5521374 (E.D. Va. Sept. 14, 2020)
93. *Joyner v. Santos*, No. 3:20-CV-00054-GCS, 2020 WL 5500518 (S.D. Ill. Sept. 11, 2020)
94. *Sosa v. Mahone*, No. 19-CV-1212 KG-LF, 2020 WL 5369062 (D.N.M. Sept. 8, 2020)
95. *Taylor v. Witham*, No. 3:20-CV-589-DRL-MGG, 2020 WL 5365982 (N.D. Ind. Sept. 8, 2020)
96. *Wolfe v. Zuckerman*, No. 1:20-CV-00175, 2020 WL 5351036 (E.D. Va. Sept. 4, 2020)
97. *Maldonado v. Carr*, No. 20-CV-501-BBC, 2020 WL 5232706 (W.D. Wis. Sept. 2, 2020)
98. *Smith v. Papoosha*, No. 3:19CV206 (MPS), 2020 WL 5231307 (D. Conn. Sept. 2, 2020)
99. *Harvey v. Melville*, No. 18 CV 7043 (NSR), 2020 WL 5123410 (S.D.N.Y. Aug. 31, 2020)
100. *L.R. v. Leon Cty. Sch. Bd.*, No. 4:19-CV-00349-WS-MAF, 2020 WL 5899513 (N.D. Fla. Aug. 27, 2020), *report and recommendation adopted sub nom. L.R v. Leon Cty. School Bd.*, No. 4:19CV349-WS/MAF, 2020 WL 5894151 (N.D. Fla. Oct. 2, 2020)
101. *Columna v. City of New York*, No. 1:19-CV-03801 (MKV), 2020 WL 5018199 (S.D.N.Y. Aug. 25, 2020)
102. *DeBose v. Weiss*, No. 2:20-CV-0108 KJN P, 2020 WL 5017095 (E.D. Cal. Aug. 25, 2020)
103. *Wiley v. Alcala*, No. A-20-CV-801-LY-SH, 2020 WL 4932542 (W.D. Tex. Aug. 24, 2020)
104. *Rogers v. City of Grover Beach*, No. 2:18-10590 PSG (ADS), 2020 WL 5868038 (C.D. Cal. Aug. 21, 2020), *report and recommendation adopted*, No. 2:18-10590 PSG (ADS), 2020 WL 5847302 (C.D. Cal. Sept. 29, 2020)
105. *Hill-Johnson v. Catanzaro*, No. CV 19-30, 2020 WL 6110847 (W.D. Pa. Aug. 20, 2020)

106. *Mines v. City of New York*, No. 18-CV-5747(KAM)(SJB), 2020 WL 4819497 (E.D.N.Y.
Aug. 19, 2020)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically on December 1, 2020. Notice was sent by operation of the Court's electronic filing system to all other counsel who have entered an appearance and any parties who have entered an appearance through counsel. The parties may access this filing through the Court's ECF system.

/s/ Michael H. Carpenter
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